

Ryan Lee (SBN: 024846)
Krohn & Moss, Ltd.
10635 Santa Monica Blvd., Suite 170
Los Angeles, CA 90025
Tel: 323-988-2400 x241
Fax: 866-583-3695
rlee@consumerlawcenter.com
Attorneys for Plaintiff,

**UNITED STATES DISTRICT COURT,
DISTRICT OF ARIZONA**

MARY HUMPHREYS,)	Case No.: 2:09-cv-01156-MHM
)	
Plaintiff,)	FIRST AMENDED COMPLAINT AND
)	DEMAND FOR JURY TRIAL
v.)	
)	(Unlawful Debt Collection Practices)
MIDLAND CREDIT MANAGEMENT,)	
)	
INC.,)	
)	
Defendant.)	

PLAINTIFF'S FIRST AMENDED COMPLAINT

MARY HUMPHREYS (Plaintiff), through her attorneys, KROHN & MOSS, LTD.,
alleges the following against MIDLAND CREDIT MANAGEMENT, INC. (Defendant):

INTRODUCTION

1. Count I of Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, *15 U.S.C. 1692 et seq.* (FDCPA).

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy."
3. Defendant conducts business in the state of Arizona, and therefore, personal jurisdiction is established.

1 4. Venue is proper pursuant to 28 *U.S.C. 1391(b)(2)*.

2 5. Declaratory relief is available pursuant to 28 *U.S.C. 2201 and 2202*.

3 **PARTIES**

4 6. Plaintiff is a natural person residing in Glendale, Arizona.

5 7. Plaintiff is a consumer as that term is defined by 15 *U.S.C. 1692a(3)*, and according to
6 Defendant, Plaintiff allegedly owes a debt as that term is defined by 15 *U.S.C. 1692a(5)*.

7 8. Defendant is a debt collector as that term is defined by 15 *U.S.C. 1692a(6)*, and sought
8 to collect a consumer debt from Plaintiff.

9 9. Defendant is a collection agency and conducts business in Arizona.

10 10. Defendant acted through its agents, employees, officers, members, directors, heirs,
11 successors, assigns, principals, trustees, sureties, subrogees, representatives, and
12 insurers.

13 **FACTUAL ALLEGATIONS**

14 11. Defendant is attempting to collecting upon an alleged debt owed to Plaintiff's son.

15 12. Defendant initiated a lawsuit against Plaintiff and her husband in an attempt to collect
16 upon the debt allegedly owed by Plaintiff's son.

17 13. Defendant served Plaintiff and her husband with legal paperwork which disclosed to
18 them that Defendant is a debt collector attempting to collect a debt from Plaintiff's son.

19 14. Neither Plaintiff nor her husband is responsible for the alleged debt owed.

20 15. Plaintiff contacted Defendant, though counsel, and informed them that she was not
21 responsible for the alleged debt.

22 16. Despite this, Defendant continues on with its lawsuit against Plaintiff and her husband.
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COUNT I
DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

17. Defendant violated the FDCPA based on the following:

- a. Defendant violated §1692d of the FDCPA when Defendant engaged in conduct of which the natural consequence is the abuse and harassment of the listener.
- b. Defendant violated §1692e(2) of the FDCPA when Defendant falsely represented the character, amount and legal status of the alleged debt by suing Plaintiff and her husband for the amount owed.
- c. Defendant violated §1692e(10) of the FDCPA by using deceptive means in an attempt to collect a debt by suing Plaintiff and her husband for a debt that they are not responsible for.
- d. Defendant violated §1692f(1) of the FDCPA by attempting to collect a debt that is not owed by Plaintiff and her husband and thus not permitted by law.

18. As a direct and proximate result of one or more or all of the statutory violations above Plaintiff has suffered emotional distress (see Exhibit A).

WHEREFORE, Plaintiff, MARY HUMPHREYS, respectfully requests judgment be entered against Defendant, MIDLAND CREDIT MANAGEMENT, INC., for the following:

19. Declaratory judgment that Defendant's conduct violated the Fair Debt Collection Practices Act,
20. Statutory damages pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*,
21. Actual damages,
22. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*
23. Any other relief that this Honorable Court deems appropriate.

DEMAND FOR JURY TRIAL

Plaintiff, MARY HUMPHREYS, demands a jury trial in this cause of action.

RESPECTFULLY SUBMITTED,

DATED: June 3, 2009

KROHN & MOSS, LTD.

By: /s/ Ryan Lee

Ryan Lee,
Attorney for Plaintiff

VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF ARIZONA

Plaintiff, MARY HUMPHREYS, states as follows:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, MARY HUMPHREYS, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

DATE: May 18, 2009

Mary Humphreys
MARY HUMPHREYS

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EXHIBIT A

I have suffered from the following due to, or made worse by, the actions of the Defendant's debt collection activities:

- | | | |
|---|------------|----|
| 1. Sleeplessness | YES | NO |
| 2. Fear of answering the telephone | YES | NO |
| 3. Nervousness | <u>YES</u> | NO |
| 4. Fear of answering the door | YES | NO |
| 5. Embarrassment when speaking with family or friends | YES | NO |
| 6. Depressions (sad, anxious, or "empty" moods) | YES | NO |
| 7. Chest pains | YES | NO |
| 8. Feelings of hopelessness, pessimism | YES | NO |
| 9. Feelings of guilt, worthlessness, helplessness | YES | NO |
| 10. Appetite and/or weight loss or overeating and weight gain | YES | NO |
| 11. Thoughts of death, suicide or suicide attempts | YES | NO |
| 12. Restlessness or irritability | YES | NO |
| 13. Headache, nausea, chronic pain or fatigue | YES | NO |
| 14. Negative impact on my job | YES | NO |
| 15. Negative impact on my relationships | YES | NO |

Other physical or emotional symptoms you believe are associated with abusive debt collection activities: _____

Pursuant to 28 U.S.C. § 1746(2), I hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

Dated: 5/18/09

Mary Humphreys
Signed Name

Mary Humphreys
Printed Name